



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5376/1
CMH&MJW:wlj

2023 ASSEMBLY BILL 1222

April 11, 2024 - Introduced by Representatives MADISON, MOORE OMOKUNDE and CLANCY, cosponsored by Senators L. JOHNSON and LARSON. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to renumber and amend* 165.85 (3) (cm); *to amend* 165.85 (3m) (c),
2 165.85 (4) (c) 7. and 175.44 (2) (b) (intro.); and *to create* 165.85 (3m) (am) 1m.
3 and 165.85 (4m) of the statutes; **relating to:** decertification of law enforcement,
4 tribal law enforcement, jail, or juvenile detention officers and the use of force
5 by law enforcement officers.

Analysis by the Legislative Reference Bureau

Current law provides the circumstances under which a law enforcement officer may use force. Under current law, a law enforcement officer must make every effort to preserve and protect human life and the safety of all persons. Law enforcement officers may use force that is objectively reasonable based on the totality of the circumstances, including the severity of the crime, if the suspect poses an imminent threat, or if the suspect is actively resisting or evading arrest by flight. This bill adds that a law enforcement officer should use skills and tactics, including de-escalation tactics, that minimize the likelihood that force will become necessary and that a law enforcement officer who is authorized to use force must use the least amount of force necessary to address the threat.

Under current law, the Law Enforcement Standards Board may decertify law enforcement, tribal law enforcement, jail, or juvenile detention officers for a variety of reasons. This bill provides that LESB must decertify officers for those reasons, and adds the following to the list of reasons to decertify an officer: 1) violating or not complying with the law governing the use of force and 2) terminating employment

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while under investigation for committing an act of official misconduct. An officer decertified while under investigation for committing an act of official misconduct may not be recertified unless the officer receives a waiver from the police commission or police and fire commission, if applicable, or the governing body, of the jurisdiction in which he or she seeks employment and corresponding recertification. The bill also requires that LESB decertify officers within 30 days after the relevant event that is the cause for decertification.

The bill requires LESB to develop a model use of force policy for law enforcement agencies to use in addition to complying with the law governing the use of force. The model policy must address interactions with individuals with mental disorders, alcohol or drug problems, dementia disorders, and developmental disabilities; limit the use of force against vulnerable populations; and include other best practices that LESB identifies.

For further information see the local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 165.85 (3) (cm) of the statutes is renumbered 165.85 (3m) (am), and
2 165.85 (3m) (am) (intro.), 1. and 2., as renumbered, are amended to read:

3 165.85 **(3m)** (am) (intro.) ~~Decertify~~ Within 30 days after the relevant event,
4 decertify law enforcement, tribal law enforcement, jail, or juvenile detention officers
5 who do any of the following:

6 1. Resign employment in lieu of termination or are terminated for just cause
7 under any applicable provision of law, ~~unless the board determines under sub. (3m)~~
8 ~~(c) that decertification on this ground is not necessary.~~

9 2. Violate or fail to comply with a rule, policy, or order of the board relating to
10 curriculum, training, or recruitment or violate or fail to comply with s. 175.44.

11 **SECTION 2.** 165.85 (3m) (am) 1m. of the statutes is created to read:

12 165.85 **(3m)** (am) 1m. Terminate employment while under investigation for an
13 alleged act of official misconduct. An officer decertified under this subdivision may
14 not be certified in the future unless the officer is granted a waiver by the police

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1 commission or police and fire commission, if applicable, of the jurisdiction in which
2 the officer seeks employment and corresponding recertification, or by the governing
3 body, as defined in s. 66.0309 (1) (a), of the city, village, town, or county of the
4 jurisdiction in which the officer seeks employment and corresponding recertification.

5 **SECTION 3.** 165.85 (3m) (c) of the statutes is amended to read:

6 165.85 **(3m)** (c) Establish procedures for decertification under sub. ~~(3)~~ ~~(cm)~~ par.
7 (am) in compliance with ch. 227, except that decertification for an action described
8 under sub. ~~(3)~~ ~~(cm)~~ par. (am) 8. shall be done as provided under par. (a). The
9 procedures shall include a process for reviewing a resignation in lieu of termination
10 or a termination for just cause.

11 **SECTION 4.** 165.85 (4) (c) 7. of the statutes is amended to read:

12 165.85 **(4)** (c) 7. Any person employed and certified as a jail officer on July 1,
13 1994, is certified as a juvenile detention officer and remains certified as a juvenile
14 detention officer subject to annual recertification requirements under subd. 6. and
15 the board's decertification authority requirements under sub. ~~(3)~~ ~~(cm)~~ (3m) (am).

16 **SECTION 5.** 165.85 (4m) of the statutes is created to read:

17 165.85 **(4m)** BEST PRACTICES. The board shall develop, and review at least once
18 every 2 years, a model use of force policy for law enforcement agencies to use in
19 addition to complying with s. 175.44 that does all of the following:

20 (a) Addresses interactions with individuals with mental disorders, alcohol or
21 drug problems, dementia disorders, and developmental disabilities.

22 (b) Limits the use of force against vulnerable populations, including children,
23 elderly individuals, pregnant women, individuals with physical or mental
24 disabilities, and individuals with limited English proficiency.

25 (c) Includes other best practices that the board identifies.

